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In re Application of
SANFILIPPO, James, J. et al.
Application No.: 10/590,100
PCT No.: PCT/US2005/005006
Int. Filing Date: 17 February 2005
Priority Date: 17 February 2004
Attorney Docket No.: 4700/78
For: FLEXIBLE BAGS WITH LOCATORS

DECISION ON

REQUEST

UNDER 37 CFR 1.497(d)

This decision is in response to applicant's request under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 14 August 2007.

BACKGROUND

On 17 February 2005, applicant filed international application PCT/US2005/005006, which claimed a priority date of 17 February 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 17 August 2006.

On 17 August 2006, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee and a declaration of the inventors.

On 10 April 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration and the surcharge for late filing of the oath or declaration. The Notification indicated that the declaration listed John E. Sanfilipro (*sic.*) who was not listed on the international publication.

On 27 April 2007, applicants filed a second copy of the earlier filed declaration as a new application. The submission was assigned application no. 11/718,212.

On 15 July 2007, the Office mailed Notification, indicating that the second submission of the declaration had been located, but that a petition under 37 CFR 1.182 was required to relocate the papers to the correct application.

On 13 August 2007, applicant submitted a petition under 37 CFR 1.182.

On 14 August 2007, applicant filed a request under 37 CFR 1.497(d) to correct the inventorship in the application.

DISCUSSION

Applicants file this request to remove the second listing of James J. Sanfilippo as an inventor and to add John E. Sanfilippo as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) has been satisfied. Applicants have provided a statement from John E. Sanfilippo and the processing fee will be charged to deposit account no. 50-1713, as authorized.

Item (3) has not been satisfied. A written consent of the assignee has not been submitted. The written consent of the assignee must comply with 37 CFR 3.73.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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